

EXHIBIT 22

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Page 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES,) 1:23-cv-00108-LMB-JFA
et al.,)
)
Plaintiffs,)
)
vs.)
)
GOOGLE LLC,)
)
Defendants.)

- HIGHLY CONFIDENTIAL -

VIDEOTAPED DEPOSITION OF
KOBY SOUTH
August 31, 2023
9:06 a.m.

Reported by: Bonnie L. Russo
Job No. CS6074125

Veritext Legal Solutions

800-567-8658

973-410-4098

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<p style="text-align: right;">Page 2</p> <p>1 Videotaped Deposition of Koby South held at:</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6 Paul Weiss Rifkind Wharton & Garrison, LLP</p> <p>7 2001 K Street, N.W.</p> <p>8 Washington, D.C.</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 Pursuant to Notice, when were present on behalf</p> <p>19 of the respective parties:</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 4</p> <p style="text-align: center;">I N D E X</p> <p>1 EXAMINATION OF KOBY SOUTH</p> <p>2 BY MS. MORGAN</p> <p>3 7</p> <p>4</p> <p>5</p> <p>6</p> <p style="text-align: center;">EXHIBITS</p> <p>7</p> <p>8 Exhibit 82 Solicitation/Contract/Order 75</p> <p>9 for Commercial Items</p> <p>10 VET-AF-ADS-0000461239-287</p> <p>11 Exhibit 83 E-Mail dated 6-16-21 151</p> <p>12 VET-AF-ADS-0000-122732-742</p> <p>13</p> <p>14 Exhibit 84 E-Mail dated 11-1-19 210</p> <p>15 Attachment</p> <p>16 VET-AF-ADS-0000126694-697</p> <p>17</p> <p>18 Exhibit 85 E-Mail dated 6-13-22 227</p> <p>19 Attachment</p> <p>20 VET-AF-ADS-0000027906-909</p> <p>21</p> <p>22 Exhibit 86 E-Mail dated 6-14-21 242</p> <p>Attachment</p> <p>VET-AF-ADS-0000027459-467</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES:</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 SEAN CARMAN, ESQUIRE</p> <p>4 VICTOR LIU, ESQUIRE</p> <p>5 ALVIN CHU, ESQUIRE</p> <p>6 KATHERINE E. CLEMONS, ESQUIRE</p> <p>7 UNITED STATES DEPARTMENT OF JUSTICE</p> <p>8 450 Fifth Street, N.W., Suite 700</p> <p>9 Washington, D.C. 20530</p> <p>sean.carman@usdoj.gov</p> <p>victor.liu@usdoj.gov</p> <p>alvin.chu@usdoj.gov</p> <p>katherine.clemons@usdoj.gov</p> <p>On behalf of the Defendant:</p> <p>10 ERIN J. MORGAN, ESQUIRE</p> <p>11 PAUL, WEISS, RIFKIND,</p> <p>12 WHARTON & GARRISON, LLP</p> <p>13 1285 Avenue of the Americas</p> <p>14 New York, New York 10019</p> <p>15 ejmorgan@paulweiss.com</p> <p>16 -and-</p> <p>17 HEATHER MILLIGAN, ESQUIRE</p> <p>18 ANNELISE CORRIVEAU, ESQUIRE</p> <p>19 MARTHA L. GOODMAN, ESQUIRE (Via Remote)</p> <p>20 PAUL, WEISS, RIFKIND,</p> <p>21 WHARTON & GARRISON, LLP</p> <p>22 2001 K Street, N.W.</p> <p>Washington, D.C. 20006</p> <p>hmilligan@paulweiss.com</p> <p>acorriveau@paulweiss.com</p> <p>mgoodman@paulweiss.com</p> <p>Also Present:</p> <p>Orson Braithwaite, Videographer</p> <p>Laura Reass, Department of Veterans Affairs</p>	<p style="text-align: right;">Page 5</p> <p style="text-align: center;">P R O C E E D I N G S</p> <p style="text-align: center;">(9:06 a.m.)</p> <p>1</p> <p>2</p> <p>3</p> <p>4 THE VIDEOGRAPHER: Good morning.</p> <p>5 We are going on the record at</p> <p>6 a.m. on August 31, 2023.</p> <p>7 Please note that the microphones are</p> <p>8 sensitive and may pick up whispering and</p> <p>9 private conversations. Please mute your phones</p> <p>10 at this time.</p> <p>11 Audio and video recording will</p> <p>12 continue to take place unless all parties agree</p> <p>13 to go off the record.</p> <p>14 This is Media Unit 1 of the</p> <p>15 video-recorded deposition of Mr. Koby South in</p> <p>16 the matter of United States, et al., versus</p> <p>17 Google LLC filed in the United States District</p> <p>18 Court, Eastern District of Virginia, Alexandria</p> <p>19 Division. Case No. 1:23-cv-00108-LMB-JFA.</p> <p>20 My name is Orson Braithwaite</p> <p>21 representing Veritext Legal Solutions. I am</p> <p>22 the videographer. The court reporter is Bonnie</p>

2 (Pages 2 - 5)

HIGHLY CONFIDENTIAL

Page 58	Page 60
<p>1 anything that you do in your job?</p> <p>2 A. Yes.</p> <p>3 Q. What kinds of things can they veto?</p> <p>4 A. Anything related to external</p> <p>5 communications to veterans.</p> <p>6 Q. Why does the VA decide to -- well,</p> <p>7 do you have an understanding of why the VA</p> <p>8 would decide to start an ad campaign?</p> <p>9 A. I would be speculating. It varies</p> <p>10 greatly.</p> <p>11 Q. Do you think that it's because the</p> <p>12 VA has a particular message or theme that it</p> <p>13 wants to communicate to the public or a segment</p> <p>14 of the public?</p> <p>15 A. Again, I would be speculating</p> <p>16 because it varies greatly.</p> <p>17 Q. Have you ever initiated an ad</p> <p>18 campaign?</p> <p>19 A. I have started communication</p> <p>20 programs for observance -- or campaigns where a</p> <p>21 paid media was part of the strategy of that</p> <p>22 effort.</p>	<p>1 A. I don't think that that would be an</p> <p>2 accurate characterization of how the</p> <p>3 complicated federal procurement and approval</p> <p>4 bureaucracy operates, and it makes it sound,</p> <p>5 like, I went, off we go. It's much more</p> <p>6 complicated.</p> <p>7 Q. Can you tell me about what your role</p> <p>8 was in starting Make a Connection?</p> <p>9 A. Yeah. I was a project manager so</p> <p>10 that -- helped develop a contract, helped</p> <p>11 review the proposals, helped review the</p> <p>12 research that -- under that, you know, as the</p> <p>13 foundation of Make the Connection, the</p> <p>14 substantial public health research involved in</p> <p>15 the campaign, helped to review and create the</p> <p>16 products associated with that campaign,</p> <p>17 including video production and social media and</p> <p>18 websites and all that, and manage those</p> <p>19 deliverables with the contractor to make sure</p> <p>20 that, you know, the contract was successful.</p> <p>21 Q. The first thing you said was that</p> <p>22 you helped develop a contract?</p>
Page 59	Page 61
<p>1 Q. Do you think that anything defined</p> <p>2 as an ad campaign necessarily incorporates paid</p> <p>3 media?</p> <p>4 MR. CARMAN: Objection. Form.</p> <p>5 THE WITNESS: Hi.</p> <p>6 MS. MORGAN: TikTok.</p> <p>7 THE WITNESS: Can you repeat the</p> <p>8 question?</p> <p>9 BY MS. MORGAN:</p> <p>10 Q. Yeah. I asked you if you had ever</p> <p>11 initiated an ad campaign, and you said I</p> <p>12 started communication programs for observing or</p> <p>13 campaigns where paid media was part of the</p> <p>14 strategy of that effort and I asked: Do you</p> <p>15 think that anything defined as an ad campaign</p> <p>16 necessarily incorporates paid media.</p> <p>17 MR. CARMAN: Objection to form.</p> <p>18 THE WITNESS: Personally, I would</p> <p>19 say yes.</p> <p>20 BY MS. MORGAN:</p> <p>21 Q. Did you initiate the ad campaign for</p> <p>22 Make a Connection [sic]?</p>	<p>1 A. Correct.</p> <p>2 Q. What contract are you referring to?</p> <p>3 A. That was 12 years ago. That was a</p> <p>4 discrete Make the Connection campaign contract.</p> <p>5 Q. Uh-huh. Who was that contract with</p> <p>6 that you are -- that you're talking about?</p> <p>7 MR. CARMAN: Objection. Form.</p> <p>8 THE WITNESS: It was Reingold.</p> <p>9 BY MS. MORGAN:</p> <p>10 Q. So it was a contract with Reingold</p> <p>11 to provide advertising-related services?</p> <p>12 MR. CARMAN: Objection. Form.</p> <p>13 THE WITNESS: No.</p> <p>14 BY MS. MORGAN:</p> <p>15 Q. What was the contract for?</p> <p>16 A. The development of a national</p> <p>17 anti-stigma campaign, communication campaign.</p> <p>18 Q. Did that include paid media?</p> <p>19 A. Yes.</p> <p>20 Q. You said I think, that the contract</p> <p>21 was for a limited discrete Make the Connection</p> <p>22 campaign -- you said it was a discrete Make the</p>

16 (Pages 58 - 61)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 62</p> <p>1 Connection campaign contract.</p> <p>2 What did you mean when you said it</p> <p>3 was a "discrete contract"?</p> <p>4 MR. CARMAN: Objection to form.</p> <p>5 BY MS. MORGAN:</p> <p>6 Q. What did you mean by -- when you</p> <p>7 said "that was a discrete Make the Connection</p> <p>8 contract"?</p> <p>9 A. It was focused exclusively on</p> <p>10 developing Make the Connection.</p> <p>11 Q. Do you have any recollection of what</p> <p>12 the term was for that contract?</p> <p>13 A. I'm pretty sure, but I would not --</p> <p>14 it has been a while. Pretty sure it was</p> <p>15 something like a base of one year with option</p> <p>16 periods, for -- which would have been for one</p> <p>17 year. And those are typically not to exceed</p> <p>18 five years.</p> <p>19 Q. As part of your role in Make a</p> <p>20 Connection, did you set a budget for Reingold's</p> <p>21 work on that project?</p> <p>22 MR. CARMAN: Objection to form.</p>	<p style="text-align: right;">Page 64</p> <p>1 who are program managers. Paid media happens</p> <p>2 differently.</p> <p>3 Q. How does paid media happen?</p> <p>4 A. In our office only, paid media is</p> <p>5 generally given to us to use based off of</p> <p>6 lag -- what is called "lag funding," funding</p> <p>7 that -- that programs within our office, the</p> <p>8 Office of Mental Health and Suicide Prevention,</p> <p>9 have not used during the course of a fiscal</p> <p>10 year. So it's kind of like leftovers. So we</p> <p>11 don't get a specific paid media budget per year</p> <p>12 at the beginning of each fiscal year.</p> <p>13 Q. At the beginning of that answer, you</p> <p>14 said in our office only.</p> <p>15 Based on your 13 years at the VA, do</p> <p>16 you have any understanding of how budgeting for</p> <p>17 paid media works in other offices?</p> <p>18 A. I do not.</p> <p>19 Q. In the time that you were working in</p> <p>20 the Office of Governmental Affairs --</p> <p>21 A. Public and Intergovernmental</p> <p>22 Affairs.</p>
<p style="text-align: right;">Page 63</p> <p>1 THE WITNESS: No.</p> <p>2 BY MS. MORGAN:</p> <p>3 Q. Do ad campaigns typically have</p> <p>4 budgets?</p> <p>5 A. I would say that that would be a</p> <p>6 requirement. Like, you couldn't buy ads</p> <p>7 without money.</p> <p>8 Q. Who sets the budget for a contract</p> <p>9 with Reingold?</p> <p>10 A. So it varies and it depends because</p> <p>11 I -- when I answer that question, I am not</p> <p>12 referring exclusively to paid media. So,</p> <p>13 again, it -- these are large, national outreach</p> <p>14 campaigns that include a ton of development,</p> <p>15 content creation, website design, video</p> <p>16 production that could be -- that could exclude</p> <p>17 paid media and continue to operate.</p> <p>18 Most of the time, those budgets what</p> <p>19 we would consider in our office labor hours to</p> <p>20 support a website, social media developed that</p> <p>21 just gets posted organically, et cetera, those</p> <p>22 budgets are established by my colleague and I</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. Public and Intergovernmental</p> <p>2 Affairs, did you learn anything about how other</p> <p>3 offices budget for paid media?</p> <p>4 A. Oh, no.</p> <p>5 (Interruption.)</p> <p>6 (Discussion off the stenographic</p> <p>7 record.)</p> <p>8 THE VIDEOGRAPHER: The time is</p> <p>9 a.m. This begins Unit No. 2. We are on the</p> <p>10 record.</p> <p>11 BY MS. MORGAN:</p> <p>12 Q. Welcome back, Mr. South.</p> <p>13 A. Thanks.</p> <p>14 Q. Before we went on our break in the</p> <p>15 middle of a question, I spilled water all over</p> <p>16 the table and we had to go off the record to</p> <p>17 make sure that the court reporter's equipment</p> <p>18 was okay.</p> <p>19 So I am going to go back -- which I</p> <p>20 think the record reflects that you said, oh, no</p> <p>21 in response to that. I'm going to go back to</p> <p>22 the question because I don't think you meant to</p>

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 66</p> <p>1 say, oh, no in response to my question, or at</p> <p>2 least I haven't found out yet if that is what</p> <p>3 you meant to say. Is that okay?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. So my question was: In the</p> <p>6 time that you were working in the Office of</p> <p>7 Public and Intergovernmental Affairs, did you</p> <p>8 learn any information about or anything about</p> <p>9 how other offices budget for paid media?</p> <p>10 A. No.</p> <p>11 Q. You said when you were testifying</p> <p>12 about the Reingold -- the first Reingold</p> <p>13 contract in connection with Make the Connection</p> <p>14 that you thought it was a term of one year with</p> <p>15 an ability to renew for up to five years.</p> <p>16 Do you remember that?</p> <p>17 A. Yes.</p> <p>18 Q. After five years if the Office of</p> <p>19 Mental Health and Suicide Prevention wanted to</p> <p>20 continue to use Reingold's services, would it</p> <p>21 have to solicit bids again?</p> <p>22 MR. CARMAN: Objection. Form.</p>	<p style="text-align: right;">Page 68</p> <p>1 and RFP?</p> <p>2 MR. CARMAN: Objection. Form.</p> <p>3 THE WITNESS: I am not aware of an</p> <p>4 instance where there has ever been, that I have</p> <p>5 been involved in, a discrete RFP posted for</p> <p>6 paid media.</p> <p>7 BY MS. MORGAN:</p> <p>8 Q. What RFP would result in the Office</p> <p>9 of Mental Health and Suicide Prevention hiring</p> <p>10 Reingold --</p> <p>11 MR. CARMAN: Objection. Form.</p> <p>12 BY MS. MORGAN:</p> <p>13 Q. -- or accepting a bid from Reingold,</p> <p>14 I guess?</p> <p>15 MR. CARMAN: Same objection.</p> <p>16 THE WITNESS: Can you --</p> <p>17 BY MS. MORGAN:</p> <p>18 Q. Yeah. So when you said I'm not</p> <p>19 aware of an instance where -- I'm not aware of</p> <p>20 an instance where there has ever been -- that I</p> <p>21 have been involved in a discrete RFP posted for</p> <p>22 paid media --</p>
<p style="text-align: right;">Page 67</p> <p>1 THE WITNESS: Yes.</p> <p>2 BY MS. MORGAN:</p> <p>3 Q. When the Office of Mental Health and</p> <p>4 Suicide Prevention solicits bids from</p> <p>5 contractors, how does it do that?</p> <p>6 A. The short answer is request for bids</p> <p>7 are posted on an electronic service today. You</p> <p>8 know, the last few years or I don't know a</p> <p>9 decades or so, it has become more electronic on</p> <p>10 a -- on a public-facing website where all</p> <p>11 government contracts are posted and gives, you</p> <p>12 know, the contract -- the solicitation, not</p> <p>13 contract. The solicitation is put up on</p> <p>14 this -- FedBizOpps is the name of the website.</p> <p>15 I think they may have changed the name</p> <p>16 recently, though. You can Google FedBizOpps.</p> <p>17 Yeah, and so all government</p> <p>18 contracts are put up there for our</p> <p>19 solicitations, RFPs, RFIs, RFQs for entities to</p> <p>20 bid on.</p> <p>21 Q. Is a request for a bid to provide</p> <p>22 media planning services like the Reingold bid</p>	<p style="text-align: right;">Page 69</p> <p>1 A. Uh-huh.</p> <p>2 Q. -- I am just trying to understand</p> <p>3 what is posted to solicit bids for the kind of</p> <p>4 work that Reingold bid on and for Make the</p> <p>5 Connection.</p> <p>6 MR. CARMAN: Objection. Form.</p> <p>7 THE WITNESS: Specifically for Make</p> <p>8 the Connection, it would be an RFP requesting a</p> <p>9 proposal to support. Make the Connection is a</p> <p>10 large, national outreach campaign that may or</p> <p>11 may not include paid media as an element of the</p> <p>12 overall campaign.</p> <p>13 BY MS. MORGAN:</p> <p>14 Q. If you received multiple bids for an</p> <p>15 RFP, who evaluates that at the Office of Mental</p> <p>16 Health and Suicide Prevention?</p> <p>17 MR. CARMAN: Objection. Foundation.</p> <p>18 BY MS. MORGAN:</p> <p>19 Q. Does someone in the Office of Mental</p> <p>20 Health and Suicide Prevention evaluate bids for</p> <p>21 work that is going to be performed for that</p> <p>22 office?</p>

HIGHLY CONFIDENTIAL

Page 230	Page 232
<p>1 BY MS. MORGAN:</p> <p>2 Q. Is it a --</p> <p>3 A. Promoting that service is part of</p> <p>4 communication outreach strategy for that</p> <p>5 program.</p> <p>6 Q. Does this service fall within the</p> <p>7 Office of Mental Health and Suicide Prevention?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Are communications related to</p> <p>10 that service on the mental health side of the</p> <p>11 Office of Mental Health and Suicide Prevention,</p> <p>12 or are they on the suicide side?</p> <p>13 A. Suicide side.</p> <p>14 Q. So this is, again, outside of the</p> <p>15 scope of your typical remit inside mental</p> <p>16 health-specific initiatives. Am I getting that</p> <p>17 right?</p> <p>18 A. Yes.</p> <p>19 Q. And that's what you meant when you</p> <p>20 said "it was in your capacity as a volunteer"?</p> <p>21 A. Correct --</p> <p>22 MR. CARMAN: Objection to the</p>	<p>1 is a chart that says: "Calls, texts, and chats</p> <p>2 by source from paid efforts."</p> <p>3 Do you see that?</p> <p>4 A. I do.</p> <p>5 Q. Do you know what the sources are</p> <p>6 that are referred to here?</p> <p>7 A. I do other than one column. I'm</p> <p>8 actually not sure what that -- that one refers</p> <p>9 to.</p> <p>10 Q. Do you know what Google Ads refers</p> <p>11 to?</p> <p>12 A. Yes.</p> <p>13 Q. What does that refer to?</p> <p>14 A. Key word ads that would appear at</p> <p>15 the top of the page.</p> <p>16 Q. Does that include display ads?</p> <p>17 MR. CARMAN: Objection. Foundation.</p> <p>18 Form.</p> <p>19 THE WITNESS: To the best of my</p> <p>20 knowledge during this period of time, I'm not</p> <p>21 sure that that did include display ads.</p> <p>22 BY MS. MORGAN:</p>
Page 231	Page 233
<p>1 characterization of the earlier testimony.</p> <p>2 But you can answer.</p> <p>3 THE WITNESS: Yeah, that's -- that's</p> <p>4 mostly correct, yes.</p> <p>5 BY MS. MORGAN:</p> <p>6 Q. It says: "Call, text, chat volume</p> <p>7 from paid media." Do you understand what this</p> <p>8 report is showing about call, text, and chat</p> <p>9 volume from paid media?</p> <p>10 A. Yes, mostly.</p> <p>11 Q. What is it showing?</p> <p>12 A. It appears to be showing volume of</p> <p>13 calls, texts, and chats over a course of two</p> <p>14 weeks associated with paid media.</p> <p>15 Q. Are the calls, texts, and chats all</p> <p>16 going to the Veterans Crisis Line to the best</p> <p>17 of your knowledge?</p> <p>18 MR. CARMAN: Objection. Foundation.</p> <p>19 THE WITNESS: This only shows those</p> <p>20 calls, texts, and chats to that number only.</p> <p>21 BY MS. MORGAN:</p> <p>22 Q. On the right side of the page, there</p>	<p>1 Q. Do you know if the -- these are ads</p> <p>2 that are bought through a Google service called</p> <p>3 Google Ads?</p> <p>4 MR. CARMAN: Objection. Form.</p> <p>5 Foundation.</p> <p>6 THE WITNESS: I would not know that.</p> <p>7 BY MS. MORGAN:</p> <p>8 Q. Next to that it says: "FB</p> <p>9 click-to-call."</p> <p>10 Do you see that?</p> <p>11 A. Yes.</p> <p>12 Q. Do you know what FB click-to-call</p> <p>13 is?</p> <p>14 A. Facebook.</p> <p>15 Q. Next to that it says: "On-site</p> <p>16 calls."</p> <p>17 Do you know what that is?</p> <p>18 A. Actually, I don't know what that one</p> <p>19 is either, no.</p> <p>20 Q. Okay. And what about the one next</p> <p>21 to that? I think it says: "HID calls."</p> <p>22 Do you know what that is?</p>

HIGHLY CONFIDENTIAL

Page 234	Page 236
<p>1 A. No. That might be high display</p> <p>2 maybe, but that doesn't sound right, so I'm</p> <p>3 guessing.</p> <p>4 Q. Do you know how frequently these</p> <p>5 daily volume and spend reports are generated?</p> <p>6 MR. CARMAN: Objection. Form.</p> <p>7 THE WITNESS: Yeah. Right now? No.</p> <p>8 BY MS. MORGAN:</p> <p>9 Q. Did you know -- do you know how</p> <p>10 frequently they were generated at the time that</p> <p>11 you were the recipient of this in 2022?</p> <p>12 A. To the best of my recollection, I</p> <p>13 think it was every two weeks.</p> <p>14 Q. Why would the Office of Mental</p> <p>15 Health and Suicide Prevention be interested in</p> <p>16 tracking calls, texts, and chats by source from</p> <p>17 paid efforts?</p> <p>18 MR. CARMAN: Objection. Form.</p> <p>19 Foundation.</p> <p>20 THE WITNESS: Under the Veterans</p> <p>21 Crisis Line, you have a limited number of</p> <p>22 responders, unfortunately. And so paid</p>	<p>1 the Veterans Crisis Line, we have to keep the</p> <p>2 calls and the texts -- mostly to calls, but</p> <p>3 texts and chats take up a pretty significant</p> <p>4 amount of responders' time to an -- to an</p> <p>5 approximate, you know, number which you see</p> <p>6 there at the bottom right. We try to stay</p> <p>7 under 5,000, and that's why that number is</p> <p>8 under 5,000 consistently when it comes to</p> <p>9 calls.</p> <p>10 So the volume -- the source of</p> <p>11 traffic helps us ensure that we're not driving</p> <p>12 too much traffic. It's sort of a challenge.</p> <p>13 This is a special case.</p> <p>14 BY MS. MORGAN:</p> <p>15 Q. Does the Office of Mental Health and</p> <p>16 Suicide Prevention make decisions based on the</p> <p>17 performance of these sources about how to</p> <p>18 allocate resources?</p> <p>19 MR. CARMAN: Objection. Form.</p> <p>20 Foundation.</p> <p>21 THE WITNESS: This evidence you are</p> <p>22 providing here is a very special case, but</p>
Page 235	Page 237
<p>1 efforts, while you want to do your best to get</p> <p>2 them in front of relevant veteran callers,</p> <p>3 it's -- you know, you can't -- it's almost</p> <p>4 impossible to serve an ad to somebody you know</p> <p>5 definitively is a veteran. You do your best</p> <p>6 with, you know, affinities and groups and stuff</p> <p>7 like that, but it has to be -- you want to get</p> <p>8 this service in front of veterans that need it.</p> <p>9 But it has to be very tightly</p> <p>10 managed because there is a capacity at the</p> <p>11 Veterans Crisis Line. Once the capacity of</p> <p>12 responders is reached, it rolls over to</p> <p>13 SAMHSA's National Suicide Prevention Lifeline,</p> <p>14 but again, that's not the Veterans Crisis Line.</p> <p>15 You don't want to put people on hold. You</p> <p>16 don't want the phone ringing three or four</p> <p>17 times.</p> <p>18 So you need to look at the sources</p> <p>19 of -- of traffic to make sure for some</p> <p>20 reason -- because sometimes, you know, some ad</p> <p>21 you put out there just outperforms your</p> <p>22 expectations grossly. And in situations like</p>	<p>1 regardless, this evidence here is used to make</p> <p>2 business decisions relating to paid media to</p> <p>3 ensure that the Veterans Crisis Line isn't</p> <p>4 overwhelmed and that veterans in need --</p> <p>5 because when you open your aperture on</p> <p>6 advertising and you start driving nonrelevant</p> <p>7 calls to the crisis line, they might be</p> <p>8 suicidal people and the Veterans Crisis Line</p> <p>9 will help them. But as it starts to get</p> <p>10 overwhelmed on paid ads, people start getting</p> <p>11 put on hold, people start, you know, getting</p> <p>12 bounced to other places. So in this case, it's</p> <p>13 used for a very specific case.</p> <p>14 In other cases it would likely be</p> <p>15 used for something else, but it would still</p> <p>16 be -- the sources of traffic would still be</p> <p>17 very relevant data that people in my role would</p> <p>18 want to see.</p> <p>19 BY MS. MORGAN:</p> <p>20 Q. When you say "in other cases it</p> <p>21 would likely be used for something else," what</p> <p>22 other cases are you referring to?</p>

60 (Pages 234 - 237)

HIGHLY CONFIDENTIAL

<p style="text-align: right;">Page 238</p> <p>1 A. First, I wouldn't -- I'm not</p> <p>2 necessarily saying these specific types of</p> <p>3 data, but the data that we collect relating to</p> <p>4 paid media would be used to make business</p> <p>5 decisions.</p> <p>6 In this specific case, they're used</p> <p>7 to ensure that call volume aligns with the</p> <p>8 capacity of the Veterans Crisis Line.</p> <p>9 Q. When you say that in other cases</p> <p>10 data you collect relating to paid media would</p> <p>11 be used to make business decisions, what do you</p> <p>12 mean?</p> <p>13 A. Allocation of funds for different</p> <p>14 sources of paid media, and in a separate case</p> <p>15 outside of this when you're trying to drive</p> <p>16 volume based on your key performance</p> <p>17 indicators, you would look at a source that was</p> <p>18 outperforming and you would want to know why</p> <p>19 and you might invest more money in that if it's</p> <p>20 driving the sorts of traffic that you want,</p> <p>21 right.</p> <p>22 It's not like you're going to go,</p>	<p style="text-align: right;">Page 240</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And Facebook click-to-call</p> <p>3 next to that has a total of 413 calls, texts,</p> <p>4 and chats by source.</p> <p>5 Do you see that?</p> <p>6 MR. CARMAN: Object to form.</p> <p>7 THE WITNESS: Yes.</p> <p>8 BY MS. MORGAN:</p> <p>9 Q. My understanding is that in the</p> <p>10 context of this monitoring what the Office of</p> <p>11 Mental Health and Suicide Prevention is trying</p> <p>12 to do is to manage the number of calls, texts,</p> <p>13 and chats by source to ensure that they stay</p> <p>14 within the 5,000 that the Office of Mental</p> <p>15 Health and Suicide Prevention Veterans Crisis</p> <p>16 Line can serve; is that right?</p> <p>17 MR. CARMAN: Objection. Form.</p> <p>18 THE WITNESS: I would just clarify</p> <p>19 that to be per day.</p> <p>20 BY MS. MORGAN:</p> <p>21 Q. Per -- okay. 5,000 per day?</p> <p>22 A. Yes.</p>
<p style="text-align: right;">Page 239</p> <p>1 oh, it's driving too much volume. We need to</p> <p>2 reduce those ads because we're overwhelming the</p> <p>3 crisis line. You would actually in many</p> <p>4 instances might increase the ads related to</p> <p>5 that. You might want to keep using something</p> <p>6 that's driving that high volume.</p> <p>7 Q. So, for example, in this document,</p> <p>8 Google ad -- based on that chart we were</p> <p>9 looking at, Google Ads?</p> <p>10 MR. CARMAN: Can you specify which</p> <p>11 chart.</p> <p>12 MS. MORGAN: Yeah. The chart that</p> <p>13 says: "Calls, texts, and chats by source from</p> <p>14 paid efforts." It's on the page that's</p> <p>15 Bates-stamped VET-AF-ADS-000027907.</p> <p>16 MR. CARMAN: Okay. Got it. Thanks.</p> <p>17 BY MS. MORGAN:</p> <p>18 Q. Okay. So based on this chart if you</p> <p>19 look at the grand total at the bottom, Google</p> <p>20 Ads has a total of 145 call, text, and chats by</p> <p>21 source.</p> <p>22 Do you see that?</p>	<p style="text-align: right;">Page 241</p> <p>1 Q. Okay. But if this was a different</p> <p>2 type of media report and you saw Facebook</p> <p>3 click-to-call significantly outperforming</p> <p>4 Google Ads like how it is in this chart, would</p> <p>5 you potentially make a business decision about</p> <p>6 how much to invest in Google Ads versus how</p> <p>7 much to invest in Facebook click-to-call?</p> <p>8 MR. CARMAN: Objection. Form.</p> <p>9 Foundation.</p> <p>10 THE WITNESS: I don't recall a</p> <p>11 specific instance of that --</p> <p>12 BY MS. MORGAN:</p> <p>13 Q. Okay.</p> <p>14 A. -- I will say yes, but I don't</p> <p>15 recall.</p> <p>16 Q. Let's look at another document. Do</p> <p>17 one more document, and then we can take another</p> <p>18 break.</p> <p>19 A. Sure. I mean, if you want to power</p> <p>20 through --</p> <p>21 Q. Are you okay?</p> <p>22 A. Yeah. No. I'm good.</p>

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<p style="text-align: right;">Page 274</p> <p>1 to untangle," what do you mean?</p> <p>2 MR. CARMAN: Objection. Form.</p> <p>3 Foundation.</p> <p>4 THE WITNESS: My understanding has</p> <p>5 been influenced -- not influenced, that's</p> <p>6 shitty -- sorry. Don't do that. It's -- can</p> <p>7 you repeat the question, please.</p> <p>8 BY MS. MORGAN:</p> <p>9 Q. You said -- I asked you: Outside of</p> <p>10 conversations you have had with lawyers, do you</p> <p>11 have an independent understanding of what the</p> <p>12 Department of Veterans Affairs' role is in this</p> <p>13 lawsuit.</p> <p>14 You said it would be very difficult</p> <p>15 to untangle at this point, and I said what you</p> <p>16 -- when you said "difficult to untangle," what</p> <p>17 do you mean?</p> <p>18 MR. CARMAN: And I want to object.</p> <p>19 Asked and answered, I think the previous</p> <p>20 answer.</p> <p>21 THE WITNESS: Considering I did not</p> <p>22 know what this lawsuit was about prior to</p>	<p style="text-align: right;">Page 276</p> <p>1 say that again.</p> <p>2 BY MS. MORGAN:</p> <p>3 Q. Yeah. Outside of conversations with</p> <p>4 lawyers, do you have an understanding of when</p> <p>5 the Department of Veterans Affairs got involved</p> <p>6 in this litigation?</p> <p>7 A. No.</p> <p>8 Q. To the best of your knowledge, who</p> <p>9 made the decision for the Department of</p> <p>10 Veterans Affairs to participate in this</p> <p>11 lawsuit?</p> <p>12 MR. CARMAN: So I object. Calls for</p> <p>13 attorney-client privileged information.</p> <p>14 You can answer if you know, from</p> <p>15 outside of any conversations with any lawyers,</p> <p>16 who made the decision.</p> <p>17 THE WITNESS: I don't know.</p> <p>18 BY MS. MORGAN:</p> <p>19 Q. Was your answer qualified by your</p> <p>20 counsel's instruction? My question is -- is:</p> <p>21 Do you not know who got -- who got the</p> <p>22 Department of Veterans Affairs involved in the</p>
<p style="text-align: right;">Page 275</p> <p>1 March, I would -- are you asking me if I do</p> <p>2 now, based on the information that I have at my</p> <p>3 disposal or are you asking me --</p> <p>4 BY MS. MORGAN:</p> <p>5 Q. I am just asking if -- I think you</p> <p>6 have answered the question which is that you --</p> <p>7 your understanding postdates March of 20 -- is</p> <p>8 from March of 2023 or after, and so you can't</p> <p>9 answer without revealing communications with</p> <p>10 lawyers; is that right?</p> <p>11 A. That is right.</p> <p>12 Q. Okay. Do you -- do you have an</p> <p>13 understanding from outside of conversations</p> <p>14 with lawyers, of when the Department of</p> <p>15 Veterans Affairs got involved in this</p> <p>16 litigation?</p> <p>17 MR. CARMAN: Again, I object,</p> <p>18 attorney-client, and instruct you in answering,</p> <p>19 don't disclose any conversations or the</p> <p>20 substance of conversations with counsel from VA</p> <p>21 or DOJ.</p> <p>22 THE WITNESS: I apologize. Will you</p>	<p style="text-align: right;">Page 277</p> <p>1 lawsuit, or do you not know outside of</p> <p>2 conversations with lawyers?</p> <p>3 A. I -- I don't know outside of my</p> <p>4 conversations with lawyers.</p> <p>5 MS. MORGAN: Is it your position</p> <p>6 that that fact is privileged?</p> <p>7 MR. CARMAN: Which fact?</p> <p>8 MS. MORGAN: The fact of who at the</p> <p>9 Department of Veterans Affairs made the</p> <p>10 decision to get involved in this lawsuit?</p> <p>11 MR. CARMAN: That fact is</p> <p>12 privileged, if he learned it from conversations</p> <p>13 with lawyers, yes.</p> <p>14 MS. MORGAN: Is it your position</p> <p>15 that it's legal advice?</p> <p>16 MR. CARMAN: I don't think the</p> <p>17 Department of Justice is going to take a</p> <p>18 position in this deposition as to all the</p> <p>19 possible arguments we can make, but I think</p> <p>20 it's a fair objection that it calls for</p> <p>21 attorney-client privilege.</p> <p>22 BY MS. MORGAN:</p>

70 (Pages 274 - 277)

HIGHLY CONFIDENTIAL

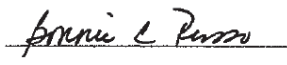
Page 278	Page 280
<p>1 Q. Have you discussed the lawsuit --</p> <p>2 the Department of Justice's lawsuit against</p> <p>3 Google with anyone outside of lawyers?</p> <p>4 A. We discussed that this morning.</p> <p>5 Q. Who did you discuss it with, outside</p> <p>6 of lawyers?</p> <p>7 A. My colleague, Mr. Rhett Herrera, and</p> <p>8 as I mentioned this morning, very briefly at</p> <p>9 the initiation of this, it was mentioned in</p> <p>10 passing in normal business meetings to our</p> <p>11 contractor.</p> <p>12 Q. Are you familiar with the term "open</p> <p>13 web display advertising"?</p> <p>14 A. Not really, no.</p> <p>15 Q. Do you have any understanding of</p> <p>16 what "open web display advertising" is?</p> <p>17 A. No.</p> <p>18 Q. Have you heard the term "open web</p> <p>19 display advertising"?</p> <p>20 A. I cannot recall.</p> <p>21 Q. Has Google caused the Department of</p> <p>22 Veterans Affairs to pay more for digital</p>	<p>1 demonstrate that Google has charged the</p> <p>2 government more than it should?</p> <p>3 MR. CARMAN: Object to form and</p> <p>4 foundation.</p> <p>5 THE WITNESS: Without refunding it</p> <p>6 after the case?</p> <p>7 BY MS. MORGAN:</p> <p>8 Q. Yes.</p> <p>9 A. No.</p> <p>10 Q. Do you have any specific reason to</p> <p>11 think that Google has charged the Department of</p> <p>12 Veterans Affairs more than it should for</p> <p>13 digital advertising?</p> <p>14 MR. CARMAN: Object to form and</p> <p>15 foundation.</p> <p>16 Let me also -- sorry. Let me</p> <p>17 caution you in answering, not to disclose</p> <p>18 conversations with counsel from VA or DOJ.</p> <p>19 THE WITNESS: In a broad sense of</p> <p>20 what Google does on a normal day-to-day, pretty</p> <p>21 likely from a personal standpoint to think that</p> <p>22 Google is probably overcharging pretty much</p>
Page 279	Page 281
<p>1 advertising than was necessary?</p> <p>2 MR. CARMAN: Objection. Form.</p> <p>3 Foundation.</p> <p>4 THE WITNESS: Probably. But do I</p> <p>5 have a certificate that has been notarized by a</p> <p>6 notary public? No.</p> <p>7 BY MS. MORGAN:</p> <p>8 Q. Do you have any specific --</p> <p>9 A. I mean, we've received refunds</p> <p>10 before, so that seems to be overcharging.</p> <p>11 Q. When you receive the refund, isn't</p> <p>12 that fixing the overcharge?</p> <p>13 A. It sure is, but I assume -- again, I</p> <p>14 don't have -- I have no, you know, there is --</p> <p>15 you are asking me to guess, because you didn't</p> <p>16 stipulate whether I have business documents</p> <p>17 that demonstrate that Google has charged the</p> <p>18 United States Government more than it should.</p> <p>19 Q. Do you have business documents?</p> <p>20 A. I do not.</p> <p>21 Q. Let me finish the question.</p> <p>22 Do you have business documents that</p>	<p>1 everybody that purchases ads from it.</p> <p>2 BY MS. MORGAN:</p> <p>3 Q. Do you have a specific reason to</p> <p>4 think that?</p> <p>5 A. No.</p> <p>6 Q. Did anyone at Reingold ever tell you</p> <p>7 that Google was causing the Department of</p> <p>8 Veterans Affairs to pay more for digital</p> <p>9 advertising?</p> <p>10 MR. CARMAN: Object to form and</p> <p>11 foundation.</p> <p>12 THE WITNESS: Not that I recall.</p> <p>13 BY MS. MORGAN:</p> <p>14 Q. Sitting here today, do you have</p> <p>15 concerns that Google has harmed the Department</p> <p>16 of Veterans Affairs?</p> <p>17 MR. CARMAN: Objection. Form.</p> <p>18 Foundation.</p> <p>19 THE WITNESS: Significantly no, but</p> <p>20 yes.</p> <p>21 BY MS. MORGAN:</p> <p>22 Q. When you say "significantly no,"</p>

71 (Pages 278 - 281)

HIGHLY CONFIDENTIAL

Page 282	Page 284
<p>1 what do you mean?</p> <p>2 A. Saying has it damaged the Department</p> <p>3 of Veterans Affairs is a pretty broad</p> <p>4 statement.</p> <p>5 Q. In what way do you think that Google</p> <p>6 has harmed the Department of Veterans Affairs?</p> <p>7 MR. CARMAN: So again, I want to</p> <p>8 just object to the question to the extent that</p> <p>9 it calls for disclosure of the substance of</p> <p>10 attorney-client communication or attorney work</p> <p>11 product and caution you, in your answer, don't</p> <p>12 disclose the substance of any conversations</p> <p>13 with counsel for VA or DOJ, and don't disclose</p> <p>14 any -- anything that would reveal the thoughts</p> <p>15 or mental impressions of the attorneys that you</p> <p>16 have talked to in this case.</p> <p>17 THE WITNESS: You referenced</p> <p>18 specifically sitting here today. I would</p> <p>19 imagine this whole spectacle wouldn't be going</p> <p>20 on unless there was a reason for it.</p> <p>21 And I -- my personal opinion based</p> <p>22 on this spectacle, but no evidence, but being a</p>	<p>1 MR. CARMAN: Objection. Lack of</p> <p>2 form and lack of foundation.</p> <p>3 THE WITNESS: Probably a bad</p> <p>4 example. We don't advertise with Amazon.</p> <p>5 BY MS. MORGAN:</p> <p>6 Q. Do you have a view on whether</p> <p>7 Facebook has harmed the Department of Veterans</p> <p>8 Affairs?</p> <p>9 MR. CARMAN: Objection. Form. Lack</p> <p>10 of foundation.</p> <p>11 THE WITNESS: I -- without direct</p> <p>12 evidence, I think that Facebook, for its very</p> <p>13 specific intended purpose of being a social</p> <p>14 media platform has, over the course of its</p> <p>15 business development, and Make the Connection</p> <p>16 has had a Facebook campaign since -- or an</p> <p>17 account since 2011, has made it increasingly</p> <p>18 more difficult to reach the fans of your</p> <p>19 account without using paid media.</p> <p>20 Therefore, they have made it more</p> <p>21 expensive to reach those people, and in some</p> <p>22 very indirect intangible way, and also tweaking</p>
Page 283	Page 285
<p>1 consumer and citizen of the United States of</p> <p>2 America and knowing the practices of Google in</p> <p>3 a broad sense, having lived in this country for</p> <p>4 46 years, is that Google has likely overcharged</p> <p>5 many advertisers when it comes to advertising,</p> <p>6 and since I am in the advertising business, it</p> <p>7 is likely that the Department of Veterans</p> <p>8 Affairs, over the course of some business or</p> <p>9 campaign, has been overcharged and not</p> <p>10 reimbursed. I do not have direct evidence of</p> <p>11 that.</p> <p>12 THE VIDEOGRAPHER: Mr. South, bring</p> <p>13 your microphone up.</p> <p>14 BY MS. MORGAN:</p> <p>15 Q. I asked you about whether you think</p> <p>16 Google has harmed the Department of Veterans</p> <p>17 Affairs.</p> <p>18 In some of your earlier answers, you</p> <p>19 referenced other platforms like Amazon, or -- I</p> <p>20 think you said Twitter or Facebook.</p> <p>21 Do you have a view on whether Amazon</p> <p>22 has harmed the Department of Veterans Affairs?</p>	<p>1 their algorithm all the time, have likely made</p> <p>2 it harder to reach veterans, which again,</p> <p>3 indirectly, could have some damage to the</p> <p>4 Department of Veterans Affairs, but that is a</p> <p>5 social media platform.</p> <p>6 BY MS. MORGAN:</p> <p>7 Q. We saw in documents earlier today,</p> <p>8 that the Department of Mental Health and</p> <p>9 Suicide Prevention has utilized Microsoft Bing</p> <p>10 in its advertising campaigns.</p> <p>11 Do you remember that?</p> <p>12 Do you have a view as to whether</p> <p>13 Microsoft has in some sense harmed the</p> <p>14 Department of Veterans Affairs?</p> <p>15 MR. CARMAN: Objection. Form and</p> <p>16 lack of foundation.</p> <p>17 THE WITNESS: I haven't heard much</p> <p>18 about Bing. It doesn't get used very often.</p> <p>19 Its market share of search is, you know, in the</p> <p>20 single percentages probably. I don't know. I</p> <p>21 think it's behind Yahoo.</p> <p>22 I can't recall ever having</p>

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<p style="text-align: right;">Page 290</p> <p>1 THE WITNESS: Yeah, I am</p> <p>2 generalizing that I think most record retention</p> <p>3 policies are somewhere in the neighborhood of</p> <p>4 seven years. That would include most records.</p> <p>5 I highly doubt that they are deleting patient</p> <p>6 records every seven years though, but most</p> <p>7 business operational documents I think are</p> <p>8 seven years.</p> <p>9 BY MS. MORGAN:</p> <p>10 Q. Do you use any kind of chat platform</p> <p>11 to communicate at work?</p> <p>12 A. We use Teams, yes.</p> <p>13 Q. And you use the chat function inside</p> <p>14 Teams?</p> <p>15 A. Yes.</p> <p>16 MS. MORGAN: Okay. I think we can</p> <p>17 go off the record. I think I am done on the</p> <p>18 30(b)(1), but I want to just talk to my team.</p> <p>19 Does anyone object to taking a</p> <p>20 break?</p> <p>21 MR. CARMAN: No.</p> <p>22 THE VIDEOGRAPHER: The time is</p>	<p style="text-align: right;">Page 292</p> <p>1 (Whereupon, the proceeding was</p> <p>2 concluded at 4:08 p.m.)</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 291</p> <p>1 p.m. This ends Unit 5. Off the record.</p> <p>2 (A short recess was taken.)</p> <p>3 THE VIDEOGRAPHER: The time is</p> <p>4 -- 4:08 p.m. We are on the record.</p> <p>5 MS. MORGAN: Mr. South, I am not</p> <p>6 going to have further questions for you as a</p> <p>7 fact witness.</p> <p>8 And before we go off the record in</p> <p>9 this deposition, I do want to just reserve</p> <p>10 rights -- my understanding is that last night</p> <p>11 the Department of Justice informed Google that</p> <p>12 there were some -- like several thousand</p> <p>13 documents of Mr. South's that had not been</p> <p>14 produced yet. We proceeded with the deposition</p> <p>15 anyways. It was scheduled. I'll just reserve</p> <p>16 the right to reopen the deposition should that</p> <p>17 become necessary when we look at the documents.</p> <p>18 And I have no further questions on</p> <p>19 this -- in this deposition.</p> <p>20 MR. CARMAN: We have no questions.</p> <p>21 THE VIDEOGRAPHER: The time is</p> <p>22 p.m. We are off the record.</p>	<p style="text-align: right;">Page 293</p> <p>1 CERTIFICATE OF NOTARY PUBLIC</p> <p>2 I, Bonnie L. Russo, the officer before</p> <p>3 whom the foregoing deposition was taken, do</p> <p>4 hereby certify that the witness whose testimony</p> <p>5 appears in the foregoing deposition was duly</p> <p>6 sworn by me; that the testimony of said witness</p> <p>7 was taken by me in shorthand and thereafter</p> <p>8 reduced to computerized transcription under my</p> <p>9 direction; that said deposition is a true</p> <p>10 record of the testimony given by said witness;</p> <p>11 that I am neither counsel for, related to, nor</p> <p>12 employed by any of the parties to the action in</p> <p>13 which this deposition was taken; and further,</p> <p>14 that I am not a relative or employee of any</p> <p>15 attorney or counsel employed by the parties</p> <p>16 hereto, nor financially or otherwise interested</p> <p>17 in the outcome of the action.</p> <p>18</p> <p>19 </p> <p>20 Notary Public in and for</p> <p>21 the District of Columbia</p> <p>22 My Commission expires: August 14, 2025.</p>

74 (Pages 290 - 293)